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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,451

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Robert G. Roodman

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THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

EXAMINER

MENON, KRISHNAN S

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/01/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,451	<b>Applicant(s)</b> ROODMAN ET AL.	
	<b>Examiner</b> Krishnan S. Menon	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,15,18,19,28,36,37,40-43,46,48-51 and 54 is/are pending in the application.
- 4a) Of the above claim(s) 36,37,40-43 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,8,15,18,19,28,48-51 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-3, 8, 15, 18, 19, 28, 36, 37, 40-43, 46, 48-51 and 54 are pending as amended in a preliminary amendment, 10/25/05.

### ***Election/Restrictions***

Applicant's election with traverse of claims 1-3, 8, 15, 18, 19, 28, 36, 37, 48-51 and 54 in the reply filed on 8/18/10 is acknowledged. The traversal is on the ground(s) that there is no undue burden of search for both the groups I and II and the species A and B. This is not found persuasive because the restriction is based under PCT rules, and at least claim 1 is anticipated by a reference, as shown in the art rejection below, and thus there is no common special technical feature linking the groups and the species. In addition, the claims are significantly wide in scope, classified in different class/sub classes, and there is a significant burden for searching.

Regarding the argument traversing the species rejection, it must also be noted that applicant did not select the claims readable on the elected invention, as is required by the restriction requirement.

At least Claims 36, 37, are deemed to be directed at the non-elected species B, and are also withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 1797

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, 8, 15, 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims recite a “pressure mechanism” and the “housing” which are unclear. Claim 2 recites that the pressure mechanism urges the wine from the source through the entry portion and the filtration device to the collection portion, which implies that the pressure mechanism includes a hand-pump or a gas cylinder/supply. Claim 3 recites a pump mechanism configured to inject gas, and is recited as separate from the pressure mechanism. Claim 8 recites the neck engaging portion as part of the pressure mechanism. Claim 18 has the pressure mechanism and the filter device in a housing, and there is no mention of the pump mechanism. The housing is shown as an oval line fully or partially surrounding the parts 36 (a pump), 90 (battery), neck portion (44) and item 22 (filter). What are included in the 'pressure mechanism' and the 'housing' are therefore unclear.

The claim details and the disclosed figures do not make clear structural connections between the elements of the claims. The Examiner respectfully requests further clarification.

For examination, the pressure mechanism is assumed as fluid passage having an entry and an exit

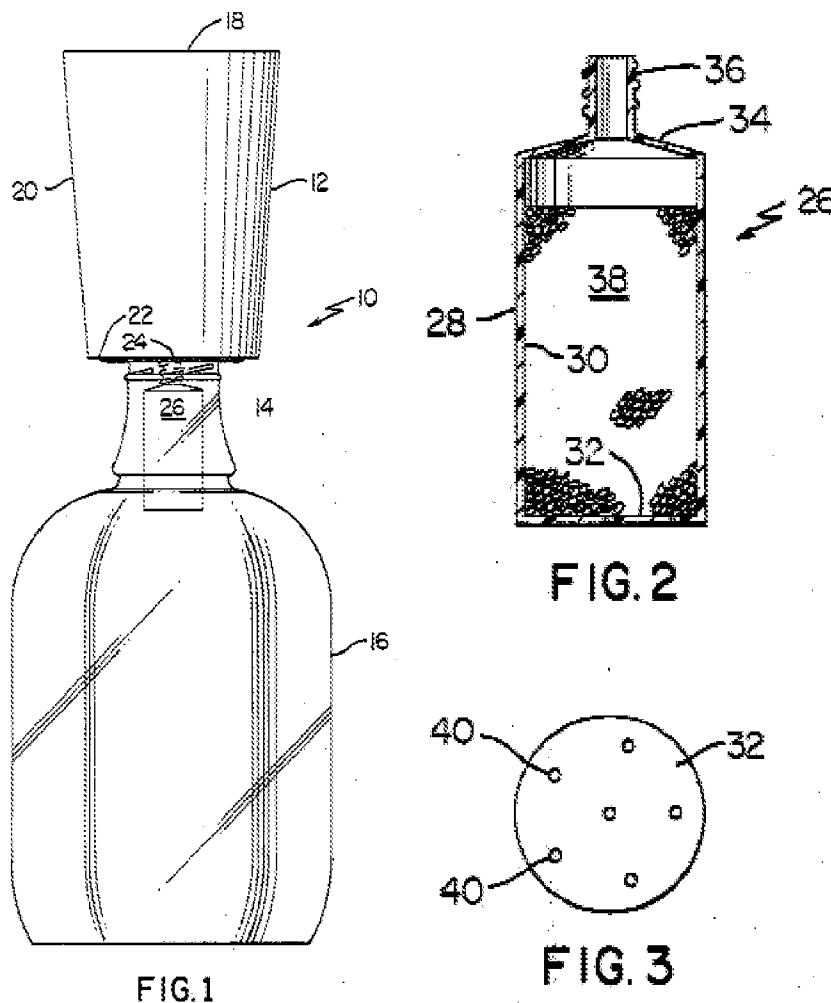
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1, 28, 48-51 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Sway (US 4,419,235).**



Sway teaches a filter apparatus having a fluid input container (20) a filter with filter media 26 and a collection container 16 – see figs. 1-3 copied herein. Filter media

Art Unit: 1797

26 is activated carbon – see column 3, lines 38-62. References to wine in the claims are intended use, and are not patentable.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 2, 3, 8, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sway in view of Lowers (US 4,997,111), or alternately, Lowers in view of Sway**

Sway teaches a filter apparatus as shown in rejection 1 above.

Claim 2: Sway teaches a the internal passage way connecting wine entry with wine exit through a filter as claimed – see the figure of Sway. However, Sway does not teach the pressure mechanism as claimed. Lowers teaches a pressure mechanism for dispensing fluids from a container - see the figure copied herein with all the structural details. It would have been obvious to one of ordinary skill in the art at the time of invention to have such a pressure mechanism as taught by Lowers in the teaching of Sway for the convenience of transferring or dispensing the liquid from the container and through the filter device of Sway. Such dispensing devices are also well known in the art (see for further evidence Shannon (US 4,624,391) which teaches a wine dispenser and Carr (US 4,454,967) – Fig %: a common drum pump.

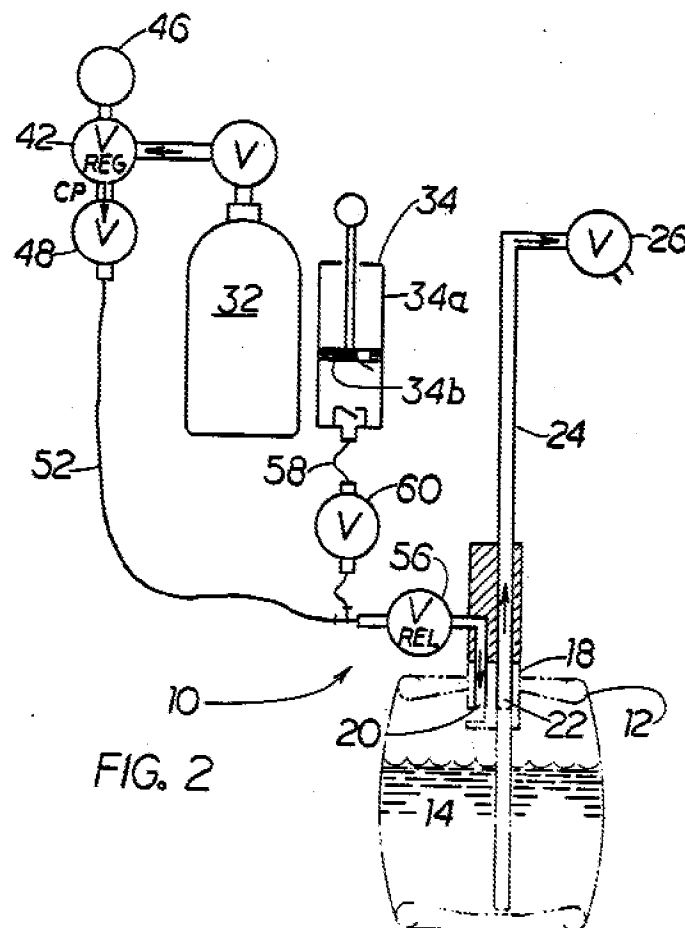


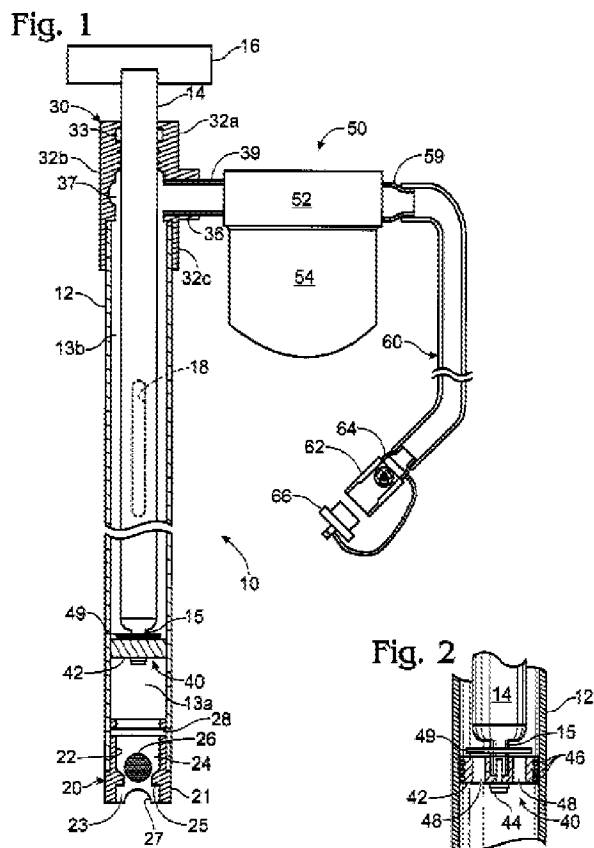
FIG. 2

Alternately, it would also have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Sway with that of Lowers to filter out the beverage as it is being dispensed so as to obtain the beverage filtered of any undesirable impurities.

Claim 3 recites a gas entry and pump mechanism to the pressure mechanism of claim 2. Lowers teaches both a hand pump (34) and a gas pump (32) mechanism for the dispenser. Claim 8 has a container with a neck portion – see container (14) has a neck portion (18), and a neck engaging portion – (19 and 19a – fig 1.)

Claim 18 – device 10 of Sway is enclosed to form a housing.

**3. Claims 1, 2, 8, 15, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 6,334,760)**



Walker teaches a filter apparatus as shown in fig 1 copied herein. The filter mechanism has a pressure mechanism including the pump and the conduits, filter (54) attached to the pump and a filtered fluid exit tube (60). Regarding the wine source with container and neck portion, the Walker device is meant for containers such as bottles and the pump (10) is capable of engaging with bottle necks.

The reference does not explicitly show a wine source and a filtered fluid container, but such would be obvious to one of ordinary skill in the art.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S. Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on 571-272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/  
Primary Examiner, Art Unit 1797